

Congress of the United States

Washington, DC 20515

March 9, 2023

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Ave SW
Washington, D.C. 20201

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington, D.C. 90530

Dear Secretary Becerra and Attorney General Garland:

The Biden-Harris Administration's formal review of the scheduling of marijuana is an opportunity to make honest assessment of the origins and implications of federal policy. We know that marijuana was scheduled based on stigma not science. It is time to address marijuana's existing reality as a state-regulated substance.

President Biden's action on October 6, 2022 instructing the U.S. Departments of Health and Human Services and Justice to review the scheduling of marijuana in the Controlled Substances Act was a necessary and overdue addition to the history of marijuana scheduling review. From the Schafer Commission's report *Marihuana: A Signal of Misunderstanding* (1972) to Justice Stevens' note in *Gonzales v. Raich* (2005) to the 21 states with regulated adult use marketplaces and 37 states with medical marijuana programs, the substance is consistently recognized as inappropriately scheduled.

However, simply rescheduling marijuana would similarly fail to reflect marijuana's existing reality as a state-regulated substance. The administrative review of marijuana's scheduling should place the burden of evidence on maintaining marijuana's status as a scheduled substance. To correct the failed war on drugs and cannabis prohibition, the assumption must be that, unless evidence undeniably indicates that marijuana is more prone to drug abuse than unscheduled substances already regulated at the state level, marijuana should be fully descheduled from the Controlled Substances Act.

Descheduling does not negate Congress' obligation to act on comprehensive federal cannabis reform. With proposals for such reform introduced from members of both parties, we are actively working to address the federal-state gap on cannabis policy. Each of these proposals works to respect the leadership states have demonstrated for 50 years in rethinking the failed and discriminatory war on drugs approach to marijuana. Given the scope of the federal government's failure on marijuana, the Administration must also take meaningful action to deschedule marijuana and partner with Congress and the states in the work ahead.

To ensure accountability in your conclusions — which has been absent in so much of the history of federal marijuana regulation — transparency is key. We urge you to make available for public review and comment any evidence cited to demonstrate marijuana is more prone to drug abuse than descheduled substances already regulated at the state level. With the severe federal restrictions on cannabis research due to marijuana's scheduling, it's important that your departments review the full scope of research available. It is time to set the federal government on a better path for marijuana policy and engage transparently with the evidence.

Marijuana does not belong as a scheduled substance. This is especially apparent given its medical potential, existing state regulatory frameworks, and reduced harm and abuse compared to stimulants and depressants already regulated outside of the Controlled Substances Act. As the Departments of Health and Human Services and Justice expeditiously and intentionally conduct your reviews, we expect the Administration to proactively partner with Congress in the path forward.

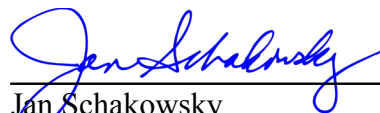
Sincerely,



Earl Blumenauer
Member of Congress



Barbara Lee
Member of Congress



Jan Schakowsky
Member of Congress



Dina Titus
Member of Congress



Nancy Mace
Member of Congress



Eleanor Holmes Norton
Member of Congress



Nikema Williams
Member of Congress



Donald M. Payne, Jr.
Member of Congress



Troy Carter
Member of Congress



Val Hoyle
Member of Congress



Mark Pocan
Member of Congress



Bonnie Watson Coleman
Member of Congress



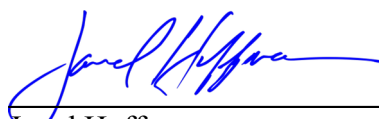
J. Luis Correa
Member of Congress



James P. McGovern
Member of Congress



Sydney Kamlager-Dove
Member of Congress



Jared Huffman
Member of Congress

CC: The Honorable Robert M. Califf, Commissioner, Food and Drug Administration